

• • R E M A R K S • •

The Official Action of September 25, 2002 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment claims 1, 2, 4, 7 and 11 have been amended to correct matters of grammar and sentence structure and the antecedent basis problems noted by the Examiner. In claim 1 it was noted that the term "shape holding" and "shape keeping" were interchangeable used. The claims have been amended to consistently use the term "shape holding."

Entry of the changes to the claims is respectfully requested.

On page 2 of the Official Action the Examiner rejected claims 1-11 under 35 U.S.C. §112, second paragraph. Under this rejection the Examiner noted several phrases that lacked antecedent basis in the claims.

In response to this rejection, the claims have been carefully amended to correct the antecedent basis problems noted by the Examiner.

Claims 1-11 are pending in this application.

Claims 1-3, 5, 7-9 and 11 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,560,372 to Pieniak.

Claims 4 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pieniak in view of U.S. Patent No. 5,479,335 to Colbert.

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Pieniak in view of U.S. Patent No. 5,490,846 to Ellis et al.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding prior art rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Pieniak as disclosing an absorbent panel for a sanitary napkin wearing article that comprises a fibrous web 10, having a compression resilience, a plurality of openings and barriers surrounding the openings. The Examiner states that the barriers comprise a shape keeping layer 14 and a body fluid retaining layer 12. The Examiner further states that the shape keeping layer 14 comprises thermoplastic synthetic resin fibers and that the body fluid retaining layer 12 comprises thermoplastic synthetic resin fibers mixed with absorbent material. The Examiner also states that the synthetic fibers are hot welded together at points of contact.

Applicants' independent claim 1 requires that the thermoplastic synthetic resin fibers of each of the shape holding layer and body fluid retaining layer are internally hot welded together at contact points within the respective layers and hot welded together along the interface of the shape holding layer and the body fluid retaining layer.

Pieniak teaches a first fibrous layer and a second layer of hydrophilic porous material. The Second layer is made of wood pulp fiber and the two layers are bonded together by exposure to pressure and 10% moisture, so that the moisture causes the superabsorbent material (positioned

between the two layers) to become tacky and secure the layers together with the superabsorbent material therebetween (See column 4, lines 58-66).

Materials other than moisture that can be used to secure the layers together include polyethylene oxide, polyvinyl acetate and starches (column 5, lines 1-3).

Pieniak does not teach that both the first and second layer contain thermoplastic synthetic resin fibers. Pieniak does not teach that both the first and second layer have internally hot welded thermoplastic synthetic resin fibers. Pieniak does not teach that the interface between the first and second layers includes hot welded contact points.

Accordingly, Pieniak cannot be relied upon as anticipating applicants' claimed invention.

The Examiner has relied upon Colbert as disclosing a first panel 2 of a fibrous web having a plurality of openings surrounded by barriers, and a second panel 4 having a plurality of openings surrounded by barriers. The Examiner notes that the panels are arranged so that the barriers of the second panel 4 divide the openings of the first panel 3.

The Examiner takes the position that:

It would have been obvious....to place the second panel upon the first panel of Pieniak, as taught by Colbert to create a structure having smaller openings than either of the individual panels.

The Examiner seems to have overlooked the fact that Colbert is directed to an absorbent device that has a low fluid "wet-back" and good surface cleanliness and resistance to staining. The structure depicted in Fig. 3 of Colbert comprises a first film or net layer 2 and an underlying film or net 4.

The film or net layers 2 and 4 of Colbert are disclosed as being formed from a number of possible materials at column 4, line 43 through column 5, line 32, none of which can be considered as comprising a fibrous web or a fibrous assembly as required by applicant's claimed panels.

Note, because of the materials used and the thinness of the film layers (preferably 30 μm to 150 μm), the film or net layers 2 and 4 of Colbert are not designed to absorb liquids. The "wet-back" layer of Colbert allows liquids to pass therethrough into the underlying absorbent core and prevent liquids from passing back onto the surface of the absorbent device.

The wet-back layer thus functions as a one-way barrier, which together or cooperation with the underlying absorbent core allows liquids to transfer into and be retain in the absorbent core.

Pieniak teaches a layered structure 10 that includes first fibrous layer 12 and cellulose fibrous layer 14 which layered structure is used "as the absorbent core in diapers, sanitary napkins, wound dressings and the like."

The alignment of the openings in the film or net layers 2 and 4 of Colbert are necessary to provide the wet-back function.

Inasmuch as the layered structure 10 of Pieniak is not at all similar to the wet-back layer of Colbert, there is no motivation within the teachings of these references that provides the necessary motivation to support a rejection under 35 U.S.C. §103.

Therefore, the Examiner's reliance upon Colbert, which does not overcome the deficiencies of Pieniak as relied upon as anticipating claims 1-3, 5 7-9 and 11, does not render claims 4 and 10 obvious.

The Examiner has relied upon Ellis et al. as teaching a body fluid absorbent panel having a compression resilience of at least 60%.

Ellis teaches that the "fibrous nonwoven web of the present invention is used as a surge layer disposed between the body side liner and the absorbent core."

The Examiner proposes that it would be obvious to make the body fluid absorbent panel of Pieniak with a compression resistance of at least 60% as taught by Ellis et al.

However, if the teachings of Ellis et al. were followed as suggested by the Examiner, the characteristics of the "body fluid absorbent panel" of Pieniak would be similar to those of a surge layer. As the Examiner is no doubt aware, surge layers as taught by Ellis et al. are used in conjunction with absorbent cores and merely function to transfer liquids quickly to the absorbent cores. If the "body fluid absorbent panel" of Pieniak were similar to the surge layer of Ellis et al. it would probably not function to both absorb and retain liquids.

Accordingly, the Examiner's reliance upon Ellis et al., which does not overcome the deficiencies of Pieniak as relied upon as anticipating claims 1-3, 5 7-9 and 11, does not render claim 6 obvious.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 02-0385 and please credit any excess fees to such deposit account.

Respectfully submitted,



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Marked-Up Copy of the Claims
As Amended on December 26, 2002

1. (Twice Amended) A body fluid absorbent panel for a sanitary wearing article comprising a fibrous web having a compression resilience, said fibrous web comprising a plurality of openings extending therethrough in a direction of a thickness of the fibrous web, and barriers surrounding and defining said openings,

said barriers comprising a shape [keeping] holding layer formed from a plurality of thermoplastic synthetic resin fibers and a body fluid retaining layer placed upon one of an upper surface and a lower surface of said shape holding layer and formed from a plurality of thermoplastic synthetic resin fibers mixed with an absorbent material,

said thermoplastic synthetic resin fibers of said shape holding layer being hot welded together at contact points thereof in said shape holding layer,

said thermoplastic synthetic resin fibers of [keeping layer as well as in] said body fluid retaining layer being hot welded together at contact points thereof in said body fluid retaining layer, and

said thermoplastic synthetic resin fibers of said shape [keeping] holding layer and said thermoplastic synthetic resin fibers of said body fluid retaining layer being hot welded [together] to each other along an interface at contact points of said [synthetic resin fibers.] shape holding layer and body fluid retaining layer.

2. (Twice Amended) The body fluid absorbent panel according to Claim 1, wherein said absorbent material comprises a hot weldable high absorbent polymer component in the form of at least one of high absorption polymer particles and a plurality of liquid-absorbent fibers made of high absorption polymer, said thermoplastic synthetic resin fibers of said body fluid retaining layer and said high absorbent polymer component being hot welded together at contact points thereof in said body fluid retaining layer and said synthetic resin fibers of said shape [keeping] holding layer and said high absorbent polymer component of said body fluid retaining layer being hot welded together at contact points thereof along said interface of said shape [keeping] holding layer and said body fluid retaining layer.

4. (Twice Amended) The body fluid absorbent panel according to Claim 1, comprising at least two of said panels which are placed upon each other in a thickness direction so that openings formed in an upper one of said two panels are divided by at least in two sections by barriers formed in a panel immediately underlying said upper one of said two panels.

7. (Twice Amended) The body fluid absorbent panel according to Claim 1, wherein a ratio between said shape [keeping] holding layer and said body fluid retaining layer with respect to a dimension of said barriers as measured in its thickness direction is in a range of 6:4 to 8:2.

11. (Amended) The body fluid absorbent panel according to Claim 1, [wherein] further comprising a lower surface that is a mat-like liquid-absorbent core substantially without any openings is provided on a lower surface of a lowermost one of said panels.] openings.